

Application No.: 09/973,602  
Amendment Dated: 26 November 2003  
Reply to Office Action of: 26 August 2003  
Attorney Docket No : CHOCK1  
Customer No.: 06980

### REMARKS

By the *Office Action* of 26 August 2003, Paper No. 10, Claims 10 and 12-14 are pending and stand rejected. By the present *Response and Amendment*, Applicants amend Claims 10-13, cancel Claim 14, and submit new Claims 21-36. No new matter is believed introduced by the present *Response and Amendment*. Entry and consideration of the amended and new claims are respectfully requested. It is respectfully submitted that the present Application is in condition for allowance for the following reasons.

#### 1. Response to 35 U.S.C. § 103(a) Rejection to Claims 10, 12, and 13

The Examiner rejected Claims 10, 12, and 13 as being unpatentable under 35 U.S.C. § 103(a) in light of *Holst* (U.S. Patent No. 4,037,346) in combination with *Yokomizo* (U.S. Patent No. 4,225,641). The Examiner asserts that *Holst* teaches a fishing hook having foil bonded thereto with adhesive and asserts that *Yokomizo* teaches an arts and crafts material wherein foil is adhered to an object with adhesive. Applicants respectfully traverse the rejection to Claims 10, 12, and 13 especially in light of the clarifying amendments.

*Yokomizo* discloses a picture making device and process for producing a picture by applying a coloring layer or a colored foil on a picture making plate in which the foil is applied to portions of the base plate to form a picture. (Col. 1, lines 1-5). The *Yokomizo* device produces a picture that has a colored pattern like an oil painting and also has the ability to represent a stained-glass like or mosaic article. (Col. 5, lines 19-29). *Yokomizo* teaches a transparent base plate having an adhesive layer and applying a liner with a silicone release agent on top of the adhesive as shown in Fig. 1. (Col. 2, lines 55-59). After the liner has been applied on the adhesive, various patterns are drawn and cut in the liner, but the base plate is not cut. (Col. 2,

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lines 60-61). Once the patterns have been cut in the liner, the cut out pieces of liner are peeled away to create a cavity and expose a section or small portion of the adhesive layer on the base plate, leaving the remaining portion of the base plate covered by the liner. (Col. 2, lines 61-69). Colored cellophane or a transfer film having an attached foil layer is then applied to the cavity such that the portions of the plate are covered with the transfer film or cellophane. If transfer film is used, the transfer film is peeled away from the foil to leave the foil attached on the adhesive layer, thereby leaving the remaining portion of the base plate covered by the liner. (Col. 2, lines 61-69; Col. 3, lines 1-6). It is important to note that *Yokomizo* does not teach to apply a foil sheet to the entire base plate, but only to the adhesive portions in the cavities of the liner so that small portions or sections of the base plate are covered with foil. The base plate with patterns of foil in the various liner cavities forms the finished product.

In another arrangement, a double-sided tape is used in the *Yokozimo* picture making process. The double sided tape is cut into a predetermined shape and placed on the base plate. (Col. 3, lines 26-29). Then, a release paper is peeled from the double sided tape so that the top adhesive layer in the predetermined shape is exposed. (Co. 3, lines 30-31). Next, a transfer film having an attached metal foil is placed on the exposed top adhesive layer and the transfer film is peeled off to leave foil of predetermined shape on the base plate. (Col. 3, lines 32-36). Alternatively, the transfer film may have a layer attached to it instead of the metal foil and in this arrangement, the transfer film and layer are applied to the exposed adhesive and the transfer film is peeled off leaving the layer attached to the adhesive. (Col. 3, lines 61-65). Once again, it is important to note that in this alternative arrangement, the base plate is not cut and that the transfer film has not been substantially adhered to the entire surface of the base plate.

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Furthermore, *Yokomizo* teaches in both arrangements to cut the liner prior to the attachment of the foil. Thus, *Yokomizo* teaches creating designs on a plate by covering only portions of the base plate, and the base plate itself being the finished product. *Yokomizo* does not teach or suggest to apply the base plate to another object to form another object.

*Holst*, on the other hand, teaches a tube fishing fly with fins that allow the fly to spin when pulled through water. (Col. 1, lines 20-24). The *Holst* fishing fly is made with a treble hook, a leader, a thin-walled hollow tube, and one or more sets of fins. (Col. 3, line 62 - Col 4, line 4). To make the *Holst* fly, the leader is attached to the treble hook, inserted through the thin walled hollow tube such that the tube rests on top of the hook, and inserted through the fins permitting the fins to rest on top of the tube. (*Id.*; Figure 1A). Several small plastic or glass beads may be placed between the top of the treble hook and the tube and also at the top of the tube as a bearing to facilitate the spinning movement of the fly. (Col. 4, lines 7-10). The thin-hollow tube may also have one or more strips of colored plastic or metal foil wrapped around and adhered to the tube in a helical pattern. (Col. 4, lines 45-49). It is important to note that *Holst* does not teach or suggest to apply or secure anything to the treble hook.

Applicants respectfully assert that the *Yokomizo* and *Holst* combination does not render Applicants' amended Claims 10, 12, and 13 as unpatentable. These claims have been amended to further clarify Applicants' invention. The references either individually or collectively do not teach all of the elements and limitations claimed by applicant. Specifically, the references do not teach to substantially uniformly adhere a sheet of foil comprising an applicator and a coating to a surface of a base material wherein the coating substantially coats all of the surface of the base material, to cut and remove a predetermined portion of an arts and

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crafts material wherein said removed portion includes the base material, or to secure the removed portion to another object.

*Yokomizo* does not teach or suggest the elements or limitations recited in amended Claims 10-13. *Yokomizo* teaches away from Applicants' claimed invention by cutting and removing layers from the base plate and applying cellophane to a small section with an exposed adhesive layer in the cavity of the liner. *Yokomizo* does not teach substantially uniformly adhering a sheet of foil comprising an applicator and a coating to said surface of said base material. *Yokomizo* teaches away by only applying cellophane or foil to small areas with an exposed adhesive not an entire sheet of base material.

*Yokomizo* also does not teach or suggest to cut and remove a predetermined portion of an arts and crafts material wherein said removed portion includes the base material.

*Yokomizo* only teaches to cut and remove the liner and not the base material when preparing to affix a small portion of cellophane or foil to the base plate.

Regarding dependent Claims 12-13 and 21-22, Applicants further respectfully assert that *Yokomizo* does not teach to apply or secure the base plate to anything else such as a fishing hook. In fact, *Yokomizo* teaches away from applying the base plate material to anything else because making a picture having various patterns with the base plate material is *Yokomizo*'s primary objective.

Applicants also respectfully submit that *Yokomizo* is different from Applicants' claimed invention because Applicants' claimed invention provides a method of making an arts and crafts material that has layers that do not separate from each other and remain intact after the material has been cut to a predetermined shape or size. This allows a user to cut different shapes of the art

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and crafts material and apply the arts and crafts material to an object such as a fishing hook.

*Yokomizo* is different in that when the liner or double sided tape is cut and removed from the base plate, the base plate is never cut. In other words, *Yokomizo* does not teach to manufacture an arts and crafts material, cut and remove a portion of the entire material including the base material, and secure the removed portion to an object, such as a fishing hook. Additionally, *Yokomizo* does not teach to substantially uniformly adhere a foil sheet to the entire base plate as only small portions of transfer film or cellophane are applied to small sections of the base plate containing adhesives. This feature of Applicant's claimed invention allows a user to conserve foil material because no foil is wasted by applying the foil to only a small section of the base plate and because a user can cut the arts and crafts material to any predetermined shape.

*Holst* does not render Applicant's claimed invention as unpatentable. *Holst* teaches only to apply a colored plastic metal foil strip around a plastic tube, but does not teach to directly apply any material to a fishing hook. Applicants submit that the *Holst* fly would not work as intended if material were applied directly to the treble hook because the *Holst* fly is designed to spin or rotate when pulled through water. Thus, *Holst* teaches away from directly securing any material to a fishing hook so that the fly can rotate freely when pulled through the water. Applicants further submit that *Holst* does not teach or suggest to substantially uniformly adhere a sheet of foil comprising an applicator and a coating to a surface of a base material wherein the coating substantially coats all of the surface of the base material, to remove a predetermined portion of an arts and crafts material wherein said removed portion includes the base material, or to secure said removed portion to an object, such as a hook.

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Applicants also respectfully assert that the *Holst* and *Yokomizo* combination is improper.

The combination is improper because *Yokomizo* is non-analogous art and is not reasonably pertinent to solving the problem solved by Applicants' claimed invention. Applicants' claimed invention solves the problem of providing a material having layers that do not separate when the material is cut, secured to a fishing hook, and immersed in water, whereas *Yokomizo* is directed at solving the problem of making a picture without using paste or a heat source to adhere colored paper of metal foil to a base plate. (Col. 5, lines 8-12). Applicants additionally assert that the Examiner has not provided any reference or suggestion providing a motivation to combine the references in rejecting Claims 10, 12, and 13. A person of ordinary skill in the art of manufacturing fish flies would not turn to *Yokomizo* because it discloses a picture making device which is not related to fishing equipment and does not disclose or suggest immersing a picture plate in water or securing a picture plate to a fishing hook. The Examiner has also not provided a reasonable expectation of success that Applicant's claimed invention would result from the *Yokomizo* and *Holst* combination. Accordingly, Applicants respectfully assert that independent Claim 10 is patentable and that dependent Claims 12-13 and 21-22 are likewise patentable. Withdrawal of the rejection to Claims 10-13 is respectfully requested.

## 2. Newly Submitted Claims 23-30

Applicants believe that new Claims 23-30 are also patentable over the cited prior art for the above discussed reasons. Claims 23-30 further define and clarify Applicants' invention and disclose a process of making a fishing fly using a sheet of arts and craft material. No new matter has been added as these claims are supported by pages 7-10 of the specification.

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New Claims 23-30 are additionally believed to be patentable over the cited prior art at least for the reason that these claims recite **constructing a sheet of arts and crafts material wherein the sheet of arts and crafts material comprises a foil sheet substantially uniformly adhered to a base material, the foil sheet comprising an applicator and a coating and removing the predetermined shaped portion from the sheet of arts and crafts material, wherein the removed predetermined shaped portion includes the coating and the base material.** The cited prior art does not teach or suggest these limitations and therefore Applicants believe that Claims 23-30 are patentable over the cited prior art.

## 2. Newly Submitted Claims 31-36

Applicants believe that new Claims 31-36 are patentable over the cited prior art for the above discussed reasons. Claims 31-36 further define and clarify Applicants' invention and disclose a process of making a fishing fly using a sheet of arts and craft material. No new matter has been added as these claims are supported by pages 5-10 of the specification. New Claims 31-36 are believed to be patentable over the cited prior art because the cited prior art does not teach or suggest all of the elements and limitations recited in Claims 31-36.

## FEES

Upon entry of this *Response and Amendment*, three (3) independent claims and nineteen (19) total claims are pending so Applicants believe that no claims fees are due. Also, this *Response and Amendment* is being filed within three (3) months of the Office Action so no extension of time fees are believed to be due. Applicant further believes that no other fees are due, but authorization to charge deposit account No. 20-1507 is hereby given should any additional fees be due.

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From-TROUTMAN SANDERS

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### CONCLUSION

In view of the foregoing, it is respectfully submitted that all claims are now in condition for allowance and reconsideration is respectfully requested. If the prosecution of the application would be expedited by direct discussion, a telephone call to Joseph M. Lewinski at (404) 885-3398 would be welcomed.

Respectfully submitted,

By: Joseph Lewinski  
Joseph M. Lewinski  
PTO Registration No. 46,383  
Attorney for Applicants

TROUTMAN SANDERS LLP  
600 Peachtree Street, NE  
Suite 5200  
Atlanta, Georgia 30308-2216  
(404) 885-3398